

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2019-050-00161R

Parcel No. 08.32.377.021

**Shane Banwell,**

Appellant,

vs.

**Jasper County Board of Review,**

Appellee.

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**Introduction**

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 10, 2019. Shane Banwell was self-represented. Assistant Jasper County Attorney Kelly Bennett represented the Board of Review.

Banwell owns a residential property located at 3118 Harbor Avenue, Newton, Iowa. Its January 1, 2019, assessment was set at \$295,380, allocated as \$49,860 in land value and \$245,520 in dwelling value. (Ex. A).

Banwell petitioned the Board of Review contending the property was inequitably assessed, assessed for more than the value authorized by law, and there was an error in the assessment. Iowa Code §§ 441.37(1)(a)(1, 2 & 4) (2019). The Board of Review denied the petition.

Banwell then appealed to PAAB and continues to assert the property is over assessed. § 441.37(1)(a)( 2).

**General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the

appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

## **Findings of Fact**

The subject property is a one-story home built in 1994. It has 1762 square feet of living area, a walk out basement with 1200 square feet of living-quarter-quality finish, an enclosed porch, a deck, a patio, and a two-car attached garage. It also has two detached garages. The first was built in 1999 and is 576 square feet. The second garage, built in 2018, is 1280 square feet. Banwell testified he began construction on the second garage before he purchased the property and it was completed after the sale. The home is listed in normal condition with a 3-05 Grade (good quality). The site is 1.290 acres. (Ex. A).

Banwell testified he purchased the subject property together with items of personal property in November 2018 for \$295,000. He allocated the purchase price as \$262,000 for the land and dwelling and \$33,000 for personal property. He testified he bought the subject from his parents' estate. Banwell believes the 2019 assessment was based on his total purchase price and he should not be taxed on the personal property that was included. (Ex. C & Appeal). We note property record card shows the 2018 sale price was \$262,000, indicating the aforementioned personal property was not considered in the property's valuation. (Ex. A). Further, it is coded by the assessor's office as D17, indicating it was a sale between family members or related parties. (Ex. A).<sup>1</sup>

Jasper County Assessor Tracy DeJong testified her office reviewed the sale of the subject property, but did not give it much weight in determining market value

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<sup>1</sup> Iowa Dept. of Revenue, Sales Condition Codes For Contract and Deed Sales Effective 8/31/15, <https://tax.iowa.gov/sites/default/files/idr/documents/Sales%20Condition%20Codes.pdf>.

because it was a family transaction. The new garage built on the subject property after it was purchased was added to the assessment for 2019, adding \$22,746 to the cost analysis. We note \$22,746 is the replacement cost new prior to negative adjustments for depreciation and functional obsolescence.

Banwell submitted five comparables, summarized below, to support his claim. (Ex.1 and Ex. F, H-K).

Comparables	Age	Sale Date	Sale Price	Site Size (Acres)	Gross Living Area (SF)	Basement Finish (SF)
SP - 3118 Harbor Ave	25	Nov-18	\$262,000	1.29	1762	1200
1 - 3344 S 12th Ave W	50	Mar-17	\$249,000	1.66	2040	0
2 - 1050 Howe St	38	Nov-18	\$239,000	1.66	1536	1000
3 - 3698 Harbor Ave	42	Nov-18	\$221,350	1.11	1882	400
4 - 611 W 28th St S	93	Oct-18	\$171,500	0.79	1594	0
5 - 1111 W 22nd St	0	Expired Listing	NA	0.393	1548	NA

Banwell did not adjust any of the sales to account for differences between them and the subject, to arrive at an opinion of value as of January 1, 2019.

The subject property is substantially newer than all of Banwell's comparables, except Comparable 5 which is new construction. None of the comparables have detached garages.

Comparable 1 is a one-and-a-half story home that is twice as old as the subject property and listed in below-normal condition. (Ex. H).

Comparable 2 is a one-story home like the subject but has a lower grade of 4+10 (average quality). (Ex. I).

Comparable 3 was also submitted by the Board of Review. (Ex. F). It is a one-story home of similar grade and condition to the subject property but has a smaller attached garage and no detached garages.

Comparable 4 is a much older two-story home with an inferior grade compared to the subject, but listed as having a superior condition. (Ex. J). The sale of this property is coded as having been an exchange, trade, gift, or transfer from an estate.

Comparable 5 was identified by Banwell as an expired listing. (Ex. 1). It is a new one-story home that was listed for \$275,000.

The Board of Review submitted three comparable sales it contends more accurately demonstrate the market value of the subject. The following table summarizes those comparables. (Exs. D-G).

Comparables	Age	Sale Date	Sale Price	Site Size (Acres)	Gross Living Area (SF)	Basement Finish (SF)	Adjusted Sale Price
SP - 3118 Harbor Ave	25	Nov-18	\$262,000	1.29	1762	1200	NA
A - 655 Hideaway Ave	18	Aug-19	\$285,000	0.76	2044	1500	\$ 303,292
B - 3698 Harbor Ave	42	Nov-18	\$221,350	1.11	1882	400	\$ 295,803
C - 3318 Harbor Ave	43	May-18	\$252,583	1.64	1996	1000	\$ 296,279

All of the sales are within a four mile radius of the subject with Comparables B and C located on the same street. All are one-story homes, like the subject.

The Board of Review made adjustments to these comparables to estimate a value for the subject property. It adjusted Comparable A to account for its smaller site size, its larger square footage and additional bath, and the fact that it lacks an attached garage. Comparable B was adjusted for its smaller basement finish area, lack of an enclosed porch, and its age. The Board of Review adjusted Comparable C for its age, its larger attached garage, and differences in quality and quantity of basement finish. All Comparables were adjusted for having smaller or no detached garages compared to the subject's two detached garages. The adjusted sale prices ranged from \$295,803 to \$303,292; all higher than the subject's assessment of \$295,380. (Ex. D). Banwell was critical of the Board of Review's comparables noting two had more gross living area than his property. He conceded that Comparable B was similar to his home, but lacked any detached garages.

### **Analysis & Conclusions of Law**

Banwell contends his property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted). To shift the burden, the taxpayer must “offer[] competent evidence that the market value of the property is different than the market value determined by the assessor.” § 441.21(3). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 782 (Iowa 2009) (citations omitted).

Sale prices of the subject property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion. *Id.* Abnormal transactions include “sales to immediate family of the seller, foreclosure or other forced sales, contract sales, discount purchase transactions or purchase of adjoining land or other land to be operated as a unit.” *Id.* The sale price of the subject is a matter to be considered in arriving at market value, but does not conclusively establish that value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996); *McHose v. Property Assessment Appeal Bd.*, 2015 WL 4488252 (Iowa Ct. App. July 22, 2015) (upholding PAAB’s decision not to rely on subject’s sales price of \$71,900 when evidence showed comparable properties were sold from \$103,000 to \$106,000).

In this case, Banwell relies primarily on the allocated purchase price of the subject property to establish its market value. His purchase from his parents’ estate, without adjustment, precludes PAAB from relying on the sale in arriving at market value. Banwell submitted several comparable sales, but we find they lacked sufficient comparability to the subject. “Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.” *Soifer*, 759 N.W.2d at 783 (citing *Bartlett & Co. Grain v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 94 (Iowa 1977)). Additionally, Banwell did not adjust the sales to arrive at a conclusion of value as of January 1, 2019. *Id.* (“When

sales of other properties are admitted, the market value of the assessed property must be adjusted to account for differences between the comparable and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments”).

Ultimately, we find the Board of Review’s sales more comparable and the adjustments to those comparable sales offer a more persuasive indication of the subject’s market value. Viewing the record as a whole, we find Banwell did not offer sufficiently persuasive evidence to support his claim that the subject property is over assessed.

### **Order**

PAAB HEREBY AFFIRMS the Jasper County Board of Review’s action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



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Karen Oberman, Board Member



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Elizabeth Goodman, Board Member



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Dennis Loll, Board Member

Copies to:

Shane Banwell by eFile

Jasper County Board of Review by eFile